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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,147

09/29/2003

James J. McGrath III

A-1583con

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08/29/2006

STOUT, UXA, BUYAN & MULLINS LLP  
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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/674,147	Applicant(s) MCGRATH, JAMES J.	
	Examiner Chi Q. Nguyen	Art Unit 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-12 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,21-26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 2,6,8-12 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> .                       |

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 6/27/2006.

#### ***Status of claims***

Claims 7, and 13-20 have been cancelled.

Claims 1-6, 8-12, 21-22 and newly added claims 23-30 have been examined.

#### ***Drawings***

The drawings submitted on 10/6/2005 are objected to because each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

#### ***Claim Objections***

Claims 26-30 are objected to because: the language between the preamble and certain portions of the body of the claim is inconsistent. For example, the preamble claim 26 sets forth a subcombination of an apparatus and a fire-rated wall is not positively claimed. However, the cited limitations "wherein said apparatus extends through a fire-rated wall, said access panel being substantially flush-mounted on a first surface of said wall" sets forth positive relationship between apparatus and a fire-rated wall, and thus appears to a combination. If applicant intends to claim a combination of reinforcement and building structure, then the preamble must be amended to clearly reflect this. At present, the claims are being treated as subcombination of an apparatus. Claims 27-30 depending from the objected independent claim 26 are also objected.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 21-26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maus (US 5,652,563) in view of Demurjian (US 5,522,344).

Claims 1 and 21:

Maus teaches a safety system for horse comprising an access panel including a door 13 and a frame F (see attached of Fig. 6) peripherally surrounding said door, said door being attached to said frame, and a stall or cage 10 having side and rear walls and attached to said access panel frame, wherein said access panel is fire protection rated (see col. 7, line 60). Maus does not teach expressly the cage having a plurality of openings for ensuring fluid communication between an interior portion of the cage and surrounding space. Demurjian teaches collapsible cage 10 having a plurality of openings on side and end walls (see Fig. 1). At the time of the invention, it would have been obvious to a person having an ordinary skill in the art to modify Maus' stall or cage for Demurjian's cage having a plurality of openings for ventilation purposes thus preventing horses from suffocation.

Claims 3 and 4:

And further comprising an environmental sensing device comprises a smoke detector 21 (Fig. 6).

Claim 5:

Wherein said sensing device comprises a heat sensor 22 (Fig. 6).

Claims 23, 24, and 25:

See rejections from claims 1, and 3-5 above.

Claims 26 and 22:

See rejections from claim 1 above. Further, as set forth the combination with a fire-rated wall of a room or hallway is not positively claimed therefore this limitation is not being given any patentable weight.

Claims 28-30:

See rejections from claims 3-5 above.

#### ***Allowable Subject Matter***

Claims 2, 6, 8-12 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-6, 8-12, and 21-30 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vavrek, Fetter, Klavemann, and Cannaday teach cage with attached door.

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Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Naoko Slack can be reached at (571) 272-6848. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at (866) 217-9197.

  
CQN

8/22/2006

  
N. Slack  
SPE

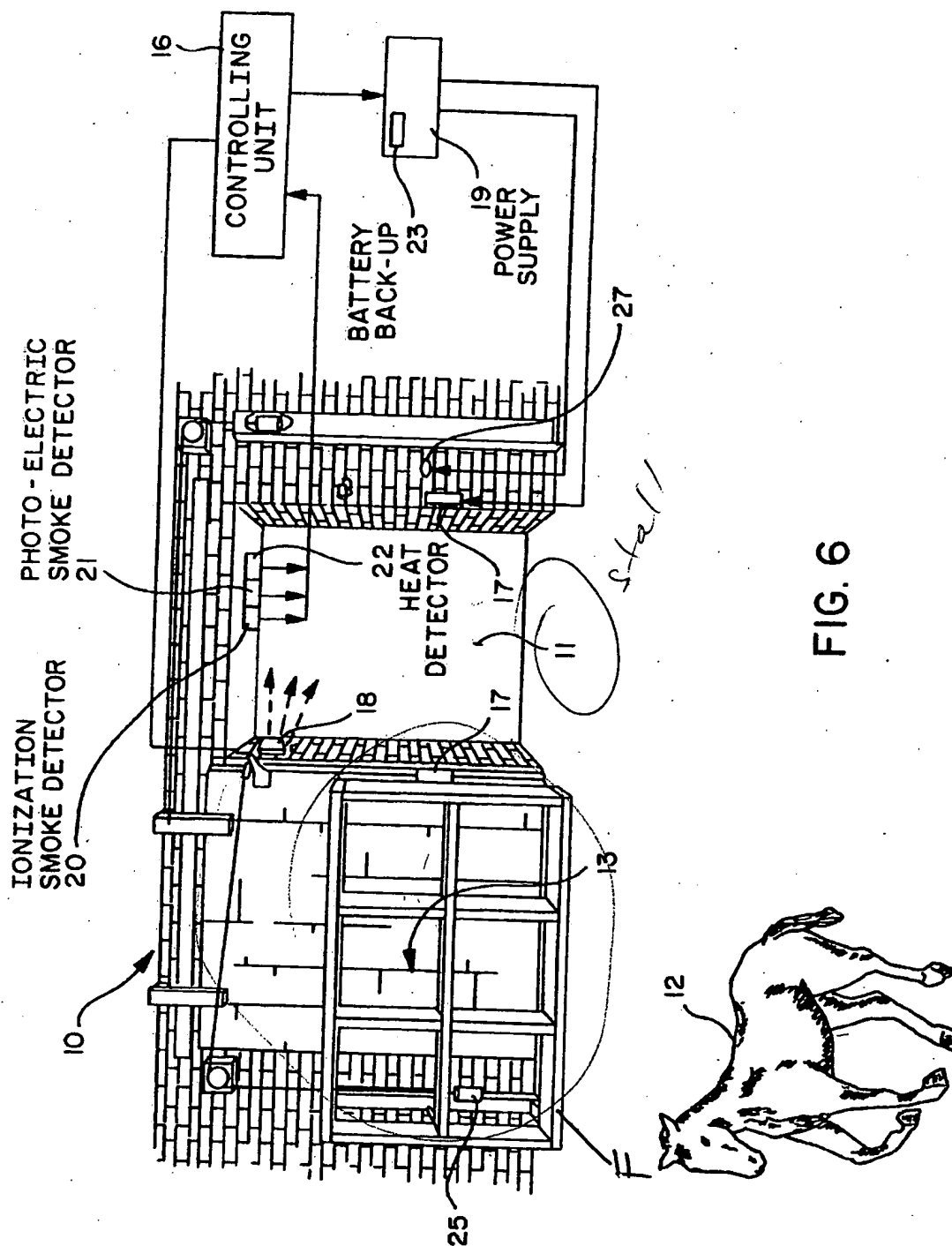


FIG. 6